

**Introduced by Senator Cox**

April 27, 2006

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An act to amend Section 41020 of the Education Code, relating to education, and declaring the urgency thereof, to take effect immediately.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1853, as introduced, Cox. Education: funding: audit.

(1) Existing law requires, not later than the 1st day of May of each fiscal year, each county superintendent of schools to provide for an audit of all funds under his or her jurisdiction and control, and the governing board of each local educational agency, as defined, to either provide for an audit of the books and accounts of the local educational agency or make arrangements with the county superintendent of schools having jurisdiction over the local educational agency to provide for that auditing, as specified. Existing law requires each audit to include an audit of pupil attendance procedures.

This bill would require an audit of pupil attendance procedures to include an examination of a particular day or days reasonably identifiable as a day or days of exceptional voluntary pupil absence, including, but not limited to, pupil boycotts, walkouts, strikes, or similar events. The bill would require the annual audit in the next fiscal year following enactment of the bill to include an examination of pupil attendance on May 1, 2006.

(2) The bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 41020 of the Education Code is amended to read:

41020. (a) It is the intent of the Legislature to encourage sound fiscal management practices among local educational agencies for the most efficient and effective use of public funds for the education of children in California by strengthening fiscal accountability at the district, county, and state levels.

(b) (1) Not later than the first day of May of each fiscal year, each county superintendent of schools shall provide for an audit of all funds under his or her jurisdiction and control and the governing board of each local educational agency shall either provide for an audit of the books and accounts of the local educational agency, including an audit of income and expenditures by source of funds, or make arrangements with the county superintendent of schools having jurisdiction over the local educational agency to provide for that auditing.

(2) A contract to perform the audit of a local educational agency that has a disapproved budget or has received a negative certification on ~~any~~ a budget or interim financial report during the current fiscal year or either of the two preceding fiscal years, or for which the county superintendent of schools has otherwise determined that a lack of going concern exists, is not valid unless approved by the responsible county superintendent of schools and the governing board.

(3) If the governing board of a local educational agency has not provided for an audit of the books and accounts of the local educational agency by April 1, the county superintendent of schools having jurisdiction over the local educational agency shall provide for the audit of each local educational agency.

(4) An audit conducted pursuant to this section shall fully comply with the Government Auditing Standards issued by the Comptroller General of the United States.

(5) For purposes of this section, "local educational agency" does not include community colleges.

(c) (1) Each audit conducted in accordance with this section shall include all funds of the local educational agency, including the student body and cafeteria funds and accounts and any other

1 funds under the control or jurisdiction of the local educational  
2 agency. ~~Each~~

3 (2) Each audit shall also include an audit of pupil attendance  
4 procedures. *An audit of pupil attendance procedures shall*  
5 *include an examination of a particular day or days reasonably*  
6 *identifiable as a day or days of exceptional voluntary pupil*  
7 *absence, including, but not limited to, pupil boycotts, walkouts,*  
8 *strikes, or similar events.*

9 (3) *The annual audit conducted in accordance with this*  
10 *section in the next fiscal year following the enactment of the act*  
11 *adding this paragraph shall include an examination of pupil*  
12 *attendance on May 1, 2006.*

13 (d) All audit reports for each fiscal year shall be developed  
14 and reported using a format established by the Controller after  
15 consultation with the Superintendent and the Director of Finance.

16 (e) (1) The cost of the audits provided for by the county  
17 superintendent of schools shall be paid from the county school  
18 service fund and the county superintendent of schools shall  
19 transfer the pro rata share of the cost chargeable to each district  
20 from district funds.

21 (2) The cost of the audit provided for by a governing board  
22 shall be paid from local educational agency funds. The audit of  
23 the funds under the jurisdiction and control of the county  
24 superintendent of schools shall be paid from the county school  
25 service fund.

26 (f) (1) The audits shall be made by a certified public  
27 accountant or a public accountant, licensed by the California  
28 Board of Accountancy, and selected by the local educational  
29 agency, as applicable, from a directory of certified public  
30 accountants and public accountants deemed by the Controller as  
31 qualified to conduct audits of local educational agencies, which  
32 shall be published by the Controller not later than December 31  
33 of each year.

34 (2) Commencing with the 2003–04 fiscal year and except as  
35 provided in subdivision (d) of Section 41320.1, it is unlawful for  
36 a public accounting firm to provide audit services to a local  
37 educational agency if the lead audit partner, or coordinating audit  
38 partner, having primary responsibility for the audit, or the audit  
39 partner responsible for reviewing the audit, has performed audit  
40 services for that local educational agency in each of the six

1 previous fiscal years. The Education Audits Appeal Panel may  
2 waive this requirement if the panel finds that no otherwise  
3 eligible auditor is available to perform the audit.

4 (3) It is the intent of the Legislature that, notwithstanding  
5 paragraph (2) ~~of this subdivision~~, the rotation within public  
6 accounting firms conform to provisions of the federal  
7 Sarbanes-Oxley Act of 2002 (P.L. 107-204; 15 U.S.C. Sec. 7201  
8 et seq.), and upon release of the report required by the act of the  
9 Comptroller General of the United States addressing the  
10 mandatory rotation of registered public accounting firms, the  
11 Legislature intends to reconsider the provisions of paragraph (2).  
12 In determining which certified public accountants and public  
13 accountants shall be included in the directory, the Controller  
14 shall use the following criteria:

15 (A) The certified public accountants or public accountants  
16 shall be in good standing as certified by the Board of  
17 Accountancy.

18 (B) The certified public accountants or public accountants, as  
19 a result of a quality control review conducted by the Controller  
20 pursuant to Section 14504.2, shall not have been found to have  
21 conducted an audit in a manner constituting noncompliance with  
22 subdivision (a) of Section 14503.

23 (g) (1) The auditor's report shall include each of the  
24 following:

25 (A) A statement that the audit was conducted pursuant to  
26 standards and procedures developed in accordance with Chapter  
27 3 (commencing with Section 14500) of Part 9 of Division 1 of  
28 Title 1.

29 (B) A summary of audit exceptions and management  
30 improvement recommendations.

31 (C) Each audit of a local educational agency shall include an  
32 evaluation by the auditor on whether there is substantial doubt  
33 about the ability of the local educational agency to continue as a  
34 going concern for a reasonable period of time. This evaluation  
35 shall be based on the Statement of Auditing Standards (SAS) No.  
36 59, as issued by the AICPA regarding disclosure requirements  
37 relating to the ability of the entity to continue as a going concern.

38 (2) To the extent possible, a description of correction or plan  
39 of correction shall be incorporated in the audit report, describing  
40 the specific actions that are planned to be taken, or that have been

1 taken, to correct the problem identified by the auditor. The  
2 descriptions of specific actions to be taken or that have been  
3 taken shall not solely consist of general comments such as “will  
4 implement,” “accepted the recommendation,” or “will discuss at  
5 a later date.”

6 (h) Not later than December 15, a report of each local  
7 educational agency audit for the preceding fiscal year shall be  
8 filed with the county superintendent of schools of the county in  
9 which the local educational agency is located, the department,  
10 and the Controller. The Superintendent shall make any  
11 adjustments necessary in future apportionments of all state funds,  
12 to correct any audit exceptions revealed by those audit reports.

13 (i) (1) Commencing with the 2002–03 audit of local  
14 educational agencies pursuant to this section, each county  
15 superintendent of schools shall be responsible for reviewing the  
16 audit exceptions contained in an audit of a local educational  
17 agency under his or her jurisdiction related to attendance,  
18 inventory of equipment, internal control, and any miscellaneous  
19 items, and determining whether the exceptions have been either  
20 corrected or an acceptable plan of correction has been developed.

21 (2) Commencing with the 2004–05 audit of local educational  
22 agencies pursuant to this section, each county superintendent of  
23 schools shall include in the review of audit exceptions performed  
24 pursuant to this subdivision those audit exceptions related to use  
25 of instructional materials program funds, teacher misassignments  
26 pursuant to Section 44258.9, information reported on the school  
27 accountability report card required pursuant to Section 33126 and  
28 shall determine whether the exceptions are either corrected or an  
29 acceptable plan of correction has been developed.

30 (j) Upon submission of the final audit report to the governing  
31 board of each local educational agency and subsequent receipt of  
32 the audit by the county superintendent of schools having  
33 jurisdiction over the local educational agency, the county office  
34 of education shall do all of the following:

35 (1) Review audit exceptions related to attendance, inventory of  
36 equipment, internal control, and other miscellaneous exceptions.  
37 Attendance exceptions or issues shall include, but not be limited  
38 to, those related to revenue limits, adult education, and  
39 independent study.

(2) If a description of the correction or plan of correction has not been provided as part of the audit required by this section, then the county superintendent of schools shall notify the local educational agency and request the governing board of the local educational agency to provide to the county superintendent of schools a description of the corrections or plan of correction by March 15.

(3) Review the description of correction or plan of correction and determine its adequacy. If the description of the correction or plan of correction is not adequate, the county superintendent of schools shall require the local educational agency to resubmit that portion of its response that is inadequate.

(k) Each county superintendent of schools shall certify to the Superintendent and the Controller, not later than May 15, that his or her staff has reviewed all audits of local educational agencies under his or her jurisdiction for the prior fiscal year, that all exceptions that the county superintendent was required to review were reviewed, and that all of those exceptions, except as otherwise noted in the certification, have been corrected by the local educational agency or that an acceptable plan of correction has been submitted to the county superintendent of schools. In addition, the county superintendent shall identify, by local educational agency, any attendance-related audit exception or exceptions involving state funds, and require the local educational agency to which the audit exceptions were directed to submit appropriate reporting forms for processing by the Superintendent.

(l) In the audit of a local educational agency for a subsequent year, the auditor shall review the correction or plan or plans of correction submitted by the local educational agency to determine if the exceptions have been resolved. If not, the auditor shall immediately notify the appropriate county office of education and the department and restate the exception in the audit report. After receiving that notification, the department shall either consult with the local educational agency to resolve the exception or require the county superintendent of schools to follow up with the local educational agency.

(m) (1) The Superintendent shall be responsible for ensuring that local educational agencies have either corrected or

1 developed plans of correction for any one or more of the  
2 following:

3 (A) All federal and state compliance audit exceptions  
4 identified in the audit.

5 (B) Any exceptions that the county superintendent certifies as  
6 of May 15 have not been corrected.

7 (C) Any repeat audit exceptions that are not assigned to a  
8 county superintendent to correct.

9 (2) In addition, the Superintendent shall be responsible for  
10 ensuring that county superintendents of schools and each county  
11 board of education that serves as the governing board of a local  
12 educational agency either correct all audit exceptions identified  
13 in the audits of county superintendents of schools and of the local  
14 educational agencies for which the county boards of education  
15 serve as the governing boards or develop acceptable plans of  
16 correction for those exceptions.

17 (3) The Superintendent shall report annually to the Controller  
18 on his or her actions to ensure that school districts, county  
19 superintendents of schools, and each county board of education  
20 that serves as the governing board of a school district have either  
21 corrected or developed plans of correction for any of the  
22 exceptions noted pursuant to paragraph (1).

23 (n) To facilitate correction of the exceptions identified by the  
24 audits issued pursuant to this section, commencing with 2002–03  
25 audits pursuant to this section, the Controller shall require  
26 auditors to categorize audit exceptions in each audit report in a  
27 manner that will make it clear to both the county superintendent  
28 of schools and the Superintendent which exceptions they are  
29 responsible for ensuring the correction of by a local educational  
30 agency. In addition, the Controller annually shall select a  
31 sampling of county superintendents of schools and perform a  
32 followup of the audit resolution process of those county  
33 superintendents of schools and report the results of that followup  
34 to the Superintendent and the county superintendents of schools  
35 that were reviewed.

36 (o) County superintendents of schools shall adjust subsequent  
37 local property tax requirements to correct audit exceptions  
38 relating to local educational agency tax rates and tax revenues.

39 (p) If a governing board or county superintendent of schools  
40 fails or is unable to make satisfactory arrangements for the audit

1 pursuant to this section, the Controller shall make arrangements  
2 for the audit and the cost of the audit shall be paid from local  
3 educational agency funds or the county school service fund, as  
4 the case may be.

5 (q) Audits of regional occupational centers and programs are  
6 subject to the provisions of this section.

7 (r) This section does not authorize examination of, or reports  
8 on, the curriculum used or provided for in ~~any~~ a local educational  
9 agency.

10 (s) Notwithstanding any other provision of law, a nonauditing,  
11 management, or other consulting service to be provided to a local  
12 educational agency by a certified public accounting firm while  
13 the certified public accounting firm is performing an audit of the  
14 agency pursuant to this section ~~must~~ *shall* be in accord with  
15 Government Accounting Standards, Amendment No. 3, as  
16 published by the United States General Accounting Office.

17 SEC. 2. This act is an urgency statute necessary for the  
18 immediate preservation of the public peace, health, or safety  
19 within the meaning of Article IV of the Constitution and shall go  
20 into immediate effect. The facts constituting the necessity are:

21 To ensure accuracy with respect to the average daily  
22 attendance rate paid to school districts for the 2005–06 and  
23 2006–07 fiscal years, it is necessary that this act take effect  
24 immediately.